

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3056 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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MAYUDDIN @ MAYUR AKBAR

Versus

STATE OF GUJARAT

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Appearance:

MS JAYSHREE C BHATT for Petitioner

MR HH PATEL, AGP, for Respondent No. 1,2 & 3

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CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 26/11/1999

ORAL JUDGEMENT

1. The petitioner who has been detained under the Gujarat Prevention of Anti Social Activities Act, 1985 [hereinafter referred to as 'the PASA Act' for short] by virtue of an order passed by the District Magistrate, Mehsana on 23rd February 1999 in exercise of powers u/s 3[1] of the PASA Act, has approached this Court with this petition under Article 226 of the Constitution of India. The grounds of detention indicate that the detaining

authority considered the fact that three offences are registered against the detenue. That in offences registered against the detenue vide Mehsana city police station Cr.R. No. 918/98, he has been bailed out on 18th November 1998. That he is involved in other unregistered offences as narrated by the four witnesses, whose identity has not been disclosed in exercise of powers u/s 9[2] of the PASA Act. The detaining authority was satisfied that the petitioner is a bootlegger and for immediately preventing him from pursuing his bootlegging activities, resorting to other less drastic remedy may not deliver results and therefore, detention under the PASA Act was the only remedy which can be resorted to.

2. The petitioner in his petition has raised many contentions. One of the contentions is that copy of an important document namely, order of the bail application in respect of Cr.R. No. 918/99 which is relied upon by the detaining authority has not been supplied by the detaining authority. Thus, the right of making effective representation is violated and therefore, the petition may be allowed.

3. Ms. Bhatt, learned advocate appearing for the petitioner has placed reliance only on this contention and submitted that non-supply of this documents has deprived the petitioner from making an effective representation guaranteed under the Constitution of India and therefore, the petition may be allowed.

4. None of the respondents have filed any affidavit in reply.

5. Mr. H.H.Patel, learned AGP appearing for the respondent authority states upon instruction from an officer from the Department that a copy of the bail application was in fact not supplied.

4. In view of the above factual situation, the petition deserves to be allowed only on the ground of non-supply of relevant document which can be said to have infringed the right of petitioner of making an effective representation envisaged under Article 22[5] of the Constitution of India. This proposition is settled in case of M.Ahmedkutty v/s Union of India & ors. as reported in 1990 [2] SCC 1.

5. The petition is therefore allowed. The impugned order of detention passed by the District Magistrate, Mehsana, on 23rd of February, 1999 in respect of the petitioner Seta Mayuddin alias Mayur Akbar, is hereby set

aside. The petitioner be set at liberty forthwith, if not required, in any other case. Rule is made absolute accordingly with no orders as to costs.

[ A.L.DAVE, J. ]

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